

**UNITED STATES NAVY-MARINE CORPS
COURT OF CRIMINAL APPEALS
WASHINGTON, D.C.**

**Before
R.E. VINCENT, E.C. PRICE, J.R. PERLAK
Appellate Military Judges**

UNITED STATES OF AMERICA

v.

**DURWOOD T. TURNER, JR
LANCE CORPORAL (E-3), U.S. MARINE CORPS**

**NMCCA 200900493
SPECIAL COURT-MARTIAL**

Sentence Adjudged: 18 May 2009.

Military Judge: LtCol G. W. Riggs, USMC.

Convening Authority: Commanding Officer, Marine Air Wing Support Squadron 272, Marine Wing Support Group 27, 2d Marine Aircraft Wing, Jacksonville, NC.

Staff Judge Advocate's Recommendation: Maj S.D. Schrock, USMC.

For Appellant: LCDR Anthony Yim, JAGC, USN.

For Appellee: Mr. Brian Keller, Esq.

10 December 2009

OPINION OF THE COURT

AS AN UNPUBLISHED DECISION, THIS OPINION DOES NOT SERVE AS PRECEDENT.

PER CURIAM:

A military judge sitting as a special court-martial convicted the appellant, pursuant to his pleas, of violation of a lawful order, making a false official statement, and five specifications involving unlawful use and distribution of controlled substances, in violation of Articles 92, 107, and 112a, Uniform Code of Military Justice, 10 U.S.C. §§ 892, 907, and 912a. The convening authority (CA) approved the appellant's sentence of confinement for seven months, forfeiture of two-

thirds pay per month for seven months, reduction to pay grade E-1, and a bad-conduct discharge.

This case was submitted to us without specific assignment of error. After conducting our thorough review of the record of trial and allied papers, we are convinced that the findings and sentence are correct in law and fact and that no error materially prejudicial to the substantial rights of the appellant occurred. Arts. 59(a) and 66(c), UCMJ.

We note, however, that the promulgating order contains an error. RULE FOR COURT MARTIAL 1114, MANUAL FOR COURTS-MARTIAL, UNITED STATES (2008 ed.). The specific error in the promulgating order is as follows: an incorrect summary of the state of the plea and finding on Charge I, CMO at p.1. See R.C.M. 1114c(1). Because service members are entitled to records that correctly reflect the results of court-martial proceedings, we shall order the necessary corrective action. *United States v. Crumpley*, 49 M.J. 538, 539 (N.M.Ct.Crim.App. 1998).

The plea entered to Charge I, alleging conspiracy, was Not Guilty. At the conclusion of the providence inquiry, the Government moved to dismiss Charge I and the military judge granted that motion, said dismissal ripening into a dismissal with prejudice upon the announcement of sentence. Record at 82.

The findings and the approved sentence are affirmed. The supplemental court-martial order shall reflect the correct plea and finding as to Charge I.

For the Court

R.H. TROIDL
Clerk of Court